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C O N F I D E N T I A L SECTION 01 OF 02 CARACAS 001739

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TAGS: [PGOV](#) [VE](#) [KDEM](#)
SUBJECT: SUPREME COURT BLESSES AMENDMENT, PSUV GEARS UP THE
MACHINE

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Classified By: POLITICAL COUNSELOR FRANCISCO FERNANDEZ,
FOR REASON 1.4(D)

¶1. (C) Summary: The Supreme Court appears poised to remove any potential legal obstacles to Chavez's constitutional amendment proposal to remove presidential term limits, paving the way for his United Socialist Party of Venezuela (PSUV) to begin both its signature drive and discussions within the National Assembly. A PSUV deputy told PolCouns that the referendum could be held as early as February 15, and that the party wants a solid margin of victory at the polls. Chavez continues to frame the amendment as a "small correction" that will give voters more choice by allowing them to vote him back into office a third term. End Summary.

SUPREME COURT: THERE'S NOTHING "IRREGULAR"

¶2. (C) Supreme Court (TSJ) President Luisa Estrella Morales announced December 15 that "until now" the court had found nothing "irregular" in Chavez's amendment proposal, but cautioned that the TSJ cannot make a final clarification until the proposal process begins in the National Assembly (AN). Pro-opposition daily El Nacional noted that Morales rarely comments on issues that have not been formally adjudicated by the TSJ, suggesting that her statement is intended to tamp down confusion generated by opposition calls for the TSJ to halt the process until it has formally issued its decision on the proposal's constitutionality.

¶3. (SBU) Constitutional lawyer Gerardo Fernandez published an article in pro-opposition daily El Universal December 14 calling Chavez's proposal a return to the dictatorships of Juan Vicente Gomez and Marcos Perez Jimenez. Fernandez pointed out that Venezuelans have historically abhorred indefinite reelection, starting with its prohibition in the country's first constitution in 1811 and even again in the Simon Bolivar-inspired constitution of 1819. Only during the period of Gomez's reign (1914 - 1931) was immediate reelection for more than eight years total permitted. Fernandez also argues that the amendment would violate article 93 of the Organic Law of Suffrage and Political Participation, which regulates the referendum process and stipulates that a topic that fails to pass a referendum cannot be resubmitted to a vote within a two-year time period.

PSUV: REFERENDUM BY FEBRUARY 15?

14. (C) PSUV National Assembly Deputy Francisco Torrealba told PolCouns December 17 that the AN would debate and do a first reading of the proposed amendment the next day. According to Torrealba, the amendment in question would eliminate any mention of term limits and states that the Presidential term is six years and the President may be re-elected. PSUV activists will deliver some 2.8 million signatures to the AN in support of the change and Torrealba claimed the PSUV will easily carry the vote, with the support of the Venezuelan Communist Party (PCV). The pro-government Patria Para Todos (PPT) party has not decided how it will vote, and Podemos is expected to vote against the amendment. The AN will then recess until January 5, and Torrealba expects that the amendment will pass a second discussion by January 9 or 10. He was unsure when the AN would then pass the proposal to the CNE, but expects that the referendum will take place on a Sunday before the Carnaval holidays -- perhaps February 15.

15. (C) Torrealba said he does not believe any real political debate over the amendment will start until January after the holidays. He believes that the "yes" vote would narrowly win right now, but the PSUV very much wants to wait and will work for a solid victory. He acknowledged that both sides will have to combat voter apathy, but is confident of the PSUV's ability to get out the vote. He also said the PSUV will try to polarize the debate to its advantage, making the referendum a plebiscite on Chavez and the "revolution" and arguing that the amendment is a "small correction" that will improve Venezuela's democracy. The amendment would give voters more "choice" and the recall provision already provides a check on presidential power.

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PPT TAKES ISSUE WITH THE PSUV

16. (C) The pro-government Patria Para Todos (PPT) and Venezuelan Communist Party (PCV) were both derided and attacked by Chavez during the runup to the November 23 elections for their support of their own candidates over PSUV contenders. Nevertheless, while PCV appears to have returned to the Chavista fold with lukewarm support for Chavez's proposal, PPT continues to push for a removal on term limits for more than just the presidency. PPT secretary general Rafael Uzcategui announced December 15 that "the amendment...is not revolutionary if it is for just one person." The party asked the National Electoral Council for an audience in order to discuss their own collection of signatures for an eventual referendum to remove term limits writ large. Uzcategui contended that PPT's criticisms do not represent a rupture with the revolution, but with the policy line of the PSUV -- a distinction likely to create perhaps a lasting break with Chavez.

17. (SBU) University student activists gathered in front of the seat of the National Telecommunications Commission (Conatel) December 15 to protest Chavez's abuse of mandatory "cadena" broadcasts to campaign for his amendment proposal. Rafael Bello, an activist from the Andres Bello Catholic University (UCAB), announced that the students had submitted a written complaint to Conatel about the use of cadenas for electoral ends. Several students from UCAB were physically assaulted by red-shirted assailants December 17 when they went to place a wreath at a statue of Simon Bolivar to commemorate his death at the Bolivar Plaza in downtown Caracas, an area widely considered off-limits to non-Chavistas.

POLLING DOES NOT FAVOR CHAVEZ

¶8. (SBU) Local polling firm Hinterlaces -- widely considered biased in favor of the opposition -- reported in a flash poll conducted in early December that 62 percent of respondents agree that the proposed amendment is unconstitutional because it was already rejected in the December 2007 referendum. However, some 42 percent of those polled, support indefinite reelection so long as there are elections every six years and participation by candidates other than Chavez. Of the 37 percent of respondents who would support additional terms for Chavez, just 15 percent support indefinite reelection while 22 percent would permit just a third term. If the referendum were the following week, 61 percent of those polled reported they would vote against Chavez's proposal, compared to 32 percent in favor of it.

¶9. (C) Comment: The TSJ once again showed its partisan colors by signaling its intention to remove potential legal obstacles to Chavez's amendment proposal. The PSUV appears poised to once again invigorate its electoral machinery to get out the vote, but may face push-back from the CNE and some supporters who are hoping for the traditional month-long Venezuelan holiday break for December and early January. The holidays in particular, however, may more disproportionately affect an initially overconfident opposition than the PSUV. "Red spot" signature-collecting stations have been readily visible throughout Caracas and we heard credible reports of government offices requiring employees and those wanting government services to ante up signatures. This election, much like November's, is likely to be determined by which side can more effectively curb abstentionism among its base. End Comment.
CAULFIELD